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Pro Bono Rates Run Hot and Cold

Some firms show big gains, yet attorneys on the whole did less pro bono work than in 2001

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The pro bono momentum begun by Sept. 11, 2001, was partially sustained in 2002, as New Jersey's top-grossing firms devoted more hours to charitable legal services. Yet, on average, fewer lawyers did substantial amounts of pro bono work.

Total pro bono hours at the top 20 firms increased 8.6 percent to 76,423, the highest total since the *New Jersey Law Journal* began its annual pro bono survey in 1991.

But as those firms added a net 91 new lawyers in 2002, the average pro bono hours per lawyer totaled 27.3, down from 29.8 in 2001. Another key performance indicator -- the percentage of lawyers at each firm logging 20 or more pro bono hours -- was also down, falling to 23.3 percent in 2002 from 26.2 percent in 2001.

Yet there were enough firms that put in better performances in 2002 than in 2001 to raise the median pro bono score -- the "class curve" determinant -- to 26, up from 21.5 in 2001. Generally, the firms with better numbers in 2002 more than offset the declining hours at others.

As a result, the letter grades produced by the curve were generally lower, and more firms fell into the "C" range. (The letter grade is determined by plotting the firms' raw pro bono scores on a bell curve. See chart on this page.)

McCarter & English showed the most improved performance, with a 49 percent increase in hours to a record 8,169. The firm also had more attorneys putting in 20 hours or more -- 76, up from 64 last year.

Patricia Zohn, McCarter's pro bono coordinator, says she believes Sept. 11 inspired lawyers, and especially firm leaders, to take on pro bono work with zeal. "It's as if in our very busy lives, we were all functioning on a constant need to bill. Now there is more introspection, and more interest in helping others," she says.

There was notable shuffling among the top five scorers in 2002, with Lowenstein Sandler's seven-year reign at No. 1 coming to an end. The firm posted roughly 1,300 fewer hours in 2002, dropping to fourth place.

In the top spot for the first time was Riker, Danzig, Scherer, Hyland & Perretti, moving up from second place in 2001. The firm, whose total hours have been steadily improving for several years, reached its own high-water mark with a 7 percent rise in hours to 9,025.

Many at the firm credit Robert Gilson, who became pro bono committee chairman in 2000. "Bob Gilson has taken pro bono at Riker to another level," says Dave Izabel, an environmental litigation associate. "He has gotten people more interested in the work by providing a greater variety of pro bono options."

Gilson, a commercial litigation partner, says he's tried to broaden pro bono participation to include historically excluded real estate, tax and corporate attorneys. "I've really encouraged [nonlitigation] attorneys to get involved with nonprofit, community organizations, especially in their own towns," he says. "And the numbers on that kind of work are way, way up."

Real estate associate Jason Rittie's work with the Morris Center YMCA in Hanover is an example. The organization wanted to purchase land adjacent to its main facility to build a childcare center for underprivileged children, but the cost was prohibitive and the group was hard-pressed to come up with the funds. Rittie, a former YMCA camp counselor, volunteered his services, providing more than 150 hours of work related to the financing and closing of the deal.

According to Rittie, "The work ended up being very complicated, spanning outside the scope of a normal transaction. It would have been almost impossible for them to afford the legal services involved." The Owls Child Care Center is now under construction.

At Lowenstein Sandler, pro bono committee chairman William Munday says he also branched out to nonlitigation attorneys in 2002. Several of the firm's corporate and real estate attorneys provided free legal services to help the New Jersey Community Development Corp. establish a halfway house for developmentally disabled adults in Hawthorne. Munday estimates that they saved the organization more than \$40,000 in legal fees they could not afford to spend. The attorneys helped secure financing, acquired property and negotiated contracts.

IMMIGRATION WORK ABOUNDS

The Sept. 11-related upswing in immigration cases continued in 2002, as did the need for pro bono counsel. Alexandra Doumas, a Lowenstein Sandler associate who coordinates the firm's pro bono immigration efforts, notes: "The attitude toward granting asylum to people has changed, now there is much more scrutiny and hesitation."

"We have had to devote more hours to immigration cases because of how much harder it is to win them now," adds Lawrence Lustberg, pro bono director at Gibbons, Del Deo, Dolan, Griffinger & Vecchione, which took third place in the survey. "Congress passed some very harsh provisions as part of the generally harsh reaction to immigrants post-Sept. 11, making our efforts on their behalf that much more important."

At McCarter & English, attorneys represented an asylum-seeking Romanian man who was a member of the historically persecuted "Romas" or "gypsies." He had been denied voting and education rights, and was forced to live in a shack without running water,

notes pro bono coordinator Zohn. Active in the fight for Roma civil rights, he was repeatedly arrested by Romanian officials who beat and sexually assaulted him. "There was some horrifying evidence of torture in the case," Zohn says. "He was told that if he made any more trouble they would kill him and his family." He fled to America in a Newark-bound container ship and was detained at the Elizabeth, N.J., detention center on arrival. McCarter & English lawyers were able to secure him political asylum.

While some of the post-Sept. 11 work has tapered off, there is still much to be done assisting families of victims with their applications to the government's relief fund. Robert Kipnees, the partner in charge of pro bono at Greenbaum, Rowe, Smith, Ravin, Davis & Himmel, says "Sept. 11th-related work represents a large part of the growing numbers of pro bono at the firm, and that continued in 2002." Kipnees does not see it tapering off until the fund's December filing deadline.

Other, more traditional types of representation also occupied pro bono hours. Lowenstein Sandler litigation counsel Patrick Whalen represented a Trenton police officer in a challenge to the Trenton Police Merit Board's 2000 decision to have him fired on the premise of incompetence. He eventually won an administrative law judge's ruling that the firing had no basis and was the result of a departmentwide conspiracy to stop him from lodging complaints about mistakes by other officers. The officer was reinstated with backpay.

Gibbons, Del Deo's pro bono efforts made law at the state Supreme Court with two domestic violence cases: *State v. Reyes*, permitting victims of domestic violence to obtain restraining orders in New Jersey even when the violent acts occurred elsewhere, and *H.E.S. v. J.C.S.*, which held that a batterer's electronic monitoring of his partner amounted to harassment and stalking under the domestic violence act.

The firm assigns three attorneys to work full time in its Gibbons Fellowship Program and logged the highest number of hours per lawyer in the survey, 77.

Norris, McLaughlin & Marcus showed a boost to 3,300 hours in 2002, but managing partner John Eagan says it was due to the firm having erroneously reported only 500 hours for 2001.

Among the worst performers was Fox, Rothschild, O'Brien & Frankel, whose total dropped for the fourth consecutive year, this time by 34.5 percent.

Jacqueline Carolan, head of the firm's pro bono committee, says attorneys at Fox Rothschild did not do an adequate job of tracking their pro bono work. She adds that when the Voorhees office closed two years ago, most of the attorneys moved to the Philadelphia office, partially explaining the drop in pro bono hours in New Jersey.

No. 19 on the list was Archer & Greiner, while No. 20 was Budd Lerner Rosenbaum Greenberg & Sade, which refused for the third consecutive year to disclose its numbers.

Archer & Greiner managing partner Neal Schonhaut could not be reached for comment. Frank Allen, chairman of the firm's personal injury department, says the firm's accounting of pro bono hours may not be thorough.

Mitchell Rait, counsel and executive director at Budd Lerner, says only that pro bono was "not a priority" at the firm.